

Appl. No. : **10/627,024**
Filed : **July 25.2003**

REMARKS

Applicant has amended claims 1, 4, 9, 10, 17, 24-44, and 46-58 and have canceled claims 15 and 45. Accordingly, Claims 1-14, 16-44, and 46-58 remain pending.

Applicant has considered all of the objections and rejections raised in the Office Action of June 21, 2006 and respond fully below.

Objections to the Specification

The specification stands objected to for various typographical errors. Applicant has amended the specification to correct the errors.

The Examiner states that on page 4, line 22, it is allegedly not clear how the implants are positioned. Applicant respectfully traverses. The implants are not a part of either member, but are independent parts of the system, as shown in Figures 2E-2J and 3A-3F, and described in the specification on page 12, line 14 through page 20, line 5. The implants are delivered through the catheters by the first or the second members.

Further, the Examiner believes that on page 10, line 21 it appears that a word is missing. Applicant respectfully submits that in Applicant's opinion, the sentence is complete as written. Applicant respectfully requests further clarification from the Examiner.

Claim Numbering

The claims are objected to under 37 C.F.R. 1.126 for being incorrectly numbered, the original claims having two claims 21. Applicant has submitted herewith a claim set having correct claim numbering. Applicant has amended claims 25-38, 40-44, and 46-58 to correct the dependency of said claims after the renumbering.

Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 10-22 stand rejected under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite.

Claim 10 is rejected for allegedly not associating the first implant with either member. Further, claims 25 and 40 are rejected for allegedly not reciting the first implant positively in the base claims 24 and 39, respectively. Applicant has amended claims 10, 24, and 39 and has included the first and the second implants as separate limitations in the body of the claims.

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Claim 16 is rejected for allegedly not reciting a positive step for containing the second implant by the first implant. Without acquiescing to the Examiner's characterization of the claim, Applicant has reworded claim 16 to recite the containment as a positive step.

In view of the above, Applicant respectfully submits that the claims are clear and definite. Applicant respectfully request that the Examiner reconsider and withdraw the rejections under 35 U.S.C. § 112, second paragraph.

Rejections under 35 U.S.C. § 102

Claims 24, 27, 29, 36-40, 49, 50, 53, and 56-58 stand rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by Anidjar (USP 6,036,723). Claims 24-26, 29-39, 44, and 49-58 stand rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by Sepetka (USP 5,814,062). Claims 10, 13-15, 17, 19-24, 36-39, 41-47, 49, 53, and 56-58 stand rejected under 35 U.S.C. § 102(e) for allegedly being anticipated by Chu (U.S. Patent Application Publication US 2003/0204246).

Applicant respectfully traverses. Independent claims 10, 24, and 39, as amended herewith, and consequently all the claims dependent therefrom, are directed to methods and systems comprising two separate implants. Support for these amendments is found throughout the specification, particularly at page 13, line 11 to page 14, line 25, and Figures 3A-3E.

Applicant respectfully submits that none of the cited references is directed to methods or system in which two separate implants are used (in the case of the the method claims) or provided (in the case of the system claims). For example, Anidjar discloses the implantation of a vascular prosthesis, **1** in Fig. 1, or **10** in Fig. 2. *See*, for example, column 8, lines 1-25. Sepetka discloses the implantation of a single occlusive implant. *See*, for example, Figures 2 and 4-15, column 3, lines 10-12 ("the occlusive implant delivery assembly includes *an* occlusive implant" (emphasis provided)), column 3, lines 39-41 and lines 62-64 ("the occlusive implant delivery assembly includes *an* occlusive implant having a tubular portion" (emphasis provided)), and column 8, line 7 to column 10, line 64, where the decoupling mechanism for a single implant is described. Likewise, Chu also discloses a single implant. While the implant of Chu is shaped into embolizing units (*see*, for example, paragraph [0021] and **15**, **15a** in Fig. 1B), the embolizing units are operably attached to one another with a filamentous carrier (**20**, **20a** in Fig. 1B, and paragraph [0022]) thereby forming a single implant unit.

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Applicant respectfully submits that because at least one limitation of the independent claims 10, 24, and 39 is missing in the cited references, these claims, and the claims dependent therefrom, are novel over the cited references. Applicant respectfully requests that the Examiner reconsider and withdraw the rejections under 35 U.S.C. § 102.

Rejections under 35 U.S.C. § 103

Claim 48 stands rejected under 35 U.S.C. § 103(a) for allegedly being obvious over Chu (U.S. Patent Application Publication US 2003/0204246) in view of Anidjar (USP 6,036,723). Applicant respectfully traverses. Claim 48 depends indirectly from claim 39, and therefore incorporates all of its limitations. Claim 39 as amended herewith is directed to a system for delivery of two separate implants. The cited references are directed to the delivery of a single implant, as discussed above. Neither reference, either alone or in combination, provides the motivation or suggestion to use a system for delivering two separate implants, nor do they provide a reasonable expectation of success for the delivery of two implants. Thus, Applicant respectfully submits that claim 48 is not obvious in view of the cited references.

Claim 28 stands rejected under 35 U.S.C. § 103(a) for allegedly being obvious over Anidjar (USP 6,036,723) in view of Bosma (U.S. Patent Application Publication US 2003/0204168). Applicant respectfully traverses. Claim 28 depends directly from claim 24, and therefore incorporates all of its limitations. Claim 24 as amended herewith is directed to a system for delivery of two separate implants. Anidjar, as discussed above, is directed to the delivery of a single implant. Likewise, Bosma does not teach or suggest the delivery or use of two separate implants. *See*, for example, paragraph [0024] (“the present invention is directed to *a* vascular filter for implantation into a living organism. The vascular filter comprises . . . *a* biocompatible vehicle affixed to at least a portion of the substantially tubular body” (emphasis provided)) paragraph [0025] (“the present invention is directed to *a* removable percutaneous vascular filter system The . . . system comprises . . . *a* filter membrane support structure” (emphasis provided)), paragraphs [0070]-[0074] and [0240]-[0242], disclosing the use of the system of Bosma, showing the implantation of a single filter device, and Figure 30.

Applicant respectfully submits that neither reference, either alone or in combination, provides the motivation or suggestion to use a system for delivering two separate implants, nor

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do they provide a reasonable expectation of success for the delivery of two implants. Thus, Applicant respectfully submits that claim 28 is not obvious in view of the cited references.

Claims 1-3 and 5-9 stand rejected under 35 U.S.C. § 103(a) for allegedly being obvious over Anidjar (USP 6,036,723) in view of Sepetka (USP 5,814,062). Claims 2, 3, and 5-9 depend directly from claim 1, and therefore incorporates all of its limitations. Claim 1 as amended herewith is directed to a system for delivery of two separate implants. The cited references are directed to the delivery of a single implant, as discussed above. Neither reference, either alone or in combination, provides the motivation or suggestion to use a system for delivering two separate implants, nor do they provide a reasonable expectation of success for the delivery of two implants. Thus, Applicant respectfully submits that claims 1-3 and 5-9 are not obvious in view of the cited references.

In view of the above, Applicant respectfully submits that all of the claims are non-obvious in view of the cited references. Applicant respectfully requests that the Examiner reconsider and withdraw the rejections under 35 U.S.C. § 103(a).

Allowable Subject Matter

Applicant thanks the Examiner for finding that the subject matter of claim 4 would be allowable if rewritten in independent form. In view of the arguments presented above, Applicant respectfully submits that claim 4 as written is allowable, since the base claim 1 should now be found allowable.

Applicant thanks the Examiner for finding that the subject matter of claims 11, 16, and 18 would be allowable once the 35 U.S.C. § 112, second paragraph, issues are resolved. In view of the amendments submitted herewith, Applicant respectfully submits that these claims, along with all of the other pending claims, are now allowable.

CONCLUSION

Applicant has amended claims 1, 4, 9, 10, 17, 24-44, and 46-58 and have canceled claims 15 and 45. Accordingly, Claims 1-14, 16-44, and 46-58 remain pending. Applicant has endeavored to respond to all of the Examiner's objections and rejections raised in the Office Action of June 21, 2006. Applicant respectfully submits that the currently pending claims are allowable and respectfully requests a notice to that effect.

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No fee is believed due with respect to this response. If this is incorrect, please charge any required fees, including any fees for extension of time, to Deposit Account No. 50-1105. Applicant invites the Examiner to call the undersigned if any issue can be resolved through a telephonic discussion.

Respectfully submitted,

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